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Education & Skills
Funding Agency

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1. Introduction

Local authorities may choose to place young people with special educational needs in special post-16 institutions where they consider that this provision will best meet the young person's needs. Such

placements will generally be made following a statutory education, health and care (EHC) assessment and will be accompanied by a statutory EHC plan (made under the Children and Families Act 2014). This provision will be funded by the local authority from their high needs budget.

Special post-16 institutions as defined below, play an important role, frequently offering specialist provision for low-incidence needs, they can receive high needs place funding directly from Education Skills and Funding Agency (ESFA).

This publication provides information for institutions on the requirements and process they must follow in order to be considered for funding for places for high needs students by ESFA for the first time in 2018 to 2019. These requirements are:

1. That the institution is a special post-16 institution as defined below.
2. Institutions have been included within their home local authority (LA) high needs place change notification workbook for 10 or more places.
3. Institutions have been named in an Education Health and Care (EHC) plan for 10 or more high needs students for the first time.

Institutions that meet these requirements will then be subject to ESFA's due diligence process, which will determine eligibility for funding.

There are 3 stages to the due diligence process:

- stage 1 – legal status and background information, and Local Authority confirmation of placement
- stage 2 – financial health assessment
- stage 3 – quality of provision

2. Definitions

For funding purposes and for this guidance, a high needs student is defined as:

1. A young person aged 16 to 18 who requires additional support costing over £6,000 per annum; and
2. A young person aged 19 to 25 subject to an EHC plan who requires additional support costing over £6,000 per annum.

High needs funding for 16 to 25 year olds consists of both place funding (sometimes known as elements 1 and 2), which is provided to the institution directly by ESFA, and top-up funding (element 3), which is provided to the institution by the LA. In all instances, Element 3 has to be agreed by the LA with an institution, and an agreement must be in place between the 2 parties. If the LA does not agree to pay top-up funding for a student, then they are not counted as high needs for funding purposes. [Further information](#) is available on GOV.UK.

For the purposes of Part 3 of the Children and Families Act 2014, which provides the legal framework for the provision of education to students with SEND, Special Post-16 Institutions are defined in section 83 of that Act as 'a post-16 institution that is specially organised to make special educational provision for students with special educational needs'.

In this document, we use the term "special post-16 institution" to refer to institutions (other than 16 to 19 academies or institutions within the FE sector) that are legally established to provide specialist post-16

education and support to young people with some of the most severe learning difficulties and/or disabilities or low incidence needs. In many cases they offer specialist residential provision.

3. ESFA funding allocations

To be eligible for consideration for ESFA grant funding in academic year 2018 to 2019, new institutions must have been included within the high needs place change notification workbook returned by the LA in which the institution's main premises are situated (the "home LA") to ESFA. If another LA requires places, it should liaise with the home LA to ensure that those places are recorded on the home LA return.

The deadline for return of the place change notification is 17 November 2017.

The home LA should only include on their return new institutions that they and/or other LAs have identified as suitable for 2018 to 2019 placements in EHC plans in respect of at least 10 students. Institutions with fewer than 10 high needs students placed by LAs can receive all their funding from the LA.

Following the closing date for return of the place change workbook ESFA will contact eligible institutions to begin the due diligence process, which must be completed by 31 March 2018 for consideration for ESFA funding for academic year 2018 to 2019.

Institutions should refer to the [Student Eligibility Guidance](#) for more general student eligibility criteria, information on funding rates and formula, and other ESFA supporting documents, in addition to the [high needs funding operational guidance](#). Where applicable, all successful institutions will be required to administer the distribution of Student Support funds, including 16 to 19 Bursaries.

For data submission requirements, institutions should refer to the guidance on [submitting Individualised Learner Record \(ILR\) returns](#). ILR submissions in accordance with these requirements are mandatory for all ESFA funded institutions. Institutions must have systems in place to enable ILR submissions to be made.

4. Requirements

All ESFA funded institutions are required to be compliant with all clauses of the funding agreement between ESFA and the institution. Funding agreement requirements include assurance on the institution's financial health, use of funds, quality of the education and training provision, safeguarding including [keeping children safe in education](#) (KCSIE) and student outcomes.

Applicants are advised to read the current ESFA funding agreement attached at Annex 1, to assure themselves that they will be able to meet ESFA's requirements. The ESFA funding agreement is updated on an annual basis and clauses may be changed or added to each year.

There may be other statutory requirements that institutions providing services to young people must comply with. It is the responsibility of institutions to ensure that they are compliant with all relevant legal

requirements. ESFA accepts no liability in respect of any failure by an institution in the event of non-compliance with such legal requirements.

Any institution that successfully completes all stages of the due diligence process will be considered for an ESFA academic year 2018 to 2019 funding agreement.

5. Timescales

This due diligence process must be completed by 31 March 2018.

At each stage of the process ESFA will acknowledge receipt of information supplied. Once complete information has been received for each stage, ESFA will review and respond with feedback where required. Where relevant this will include details of the requirements for progression to the next stage.

All stages must be successfully completed before ESFA will make an offer to enter into a funding agreement with an institution on behalf of the Secretary of State for Education. Failure to fully respond to questions posed during the process, and/or supply requested evidence/information may result in delays or failure to meet the due diligence required.

Institutions will be required to bear all their costs associated with completing the process.

6. A high needs student study programme

Special post-16 institutions educate young people with complex special educational needs, and so the majority of young people placed in such an institution will have an EHC plan. The EHC plan will note the young person's long-term aspirations, identify their special educational needs, specify measurable outcomes and set out provision. We expect the LA and an institution to work together to agree a suitable study programme for the young person, which must be tailored to their individual aspirations and support needs. Information on the latest [core aims study programmes](#) can be found on GOV.UK.

The English and maths condition of funding applies. Further information on this [condition of funding](#) can be found on GOV.UK.

A supported internship is one type of study programme specifically aimed at young people aged 16 to 24 who have an EHC plan, who want to move into employment and need extra support to do so. In June 2015, we published supported [internships advice](#) on GOV.UK.

7. Local authority funding

The LA and institution must agree a support package to enable the young person to participate effectively in the study programme. The first £6,000 per annum of the costs of the support package will be met through the funding from ESFA. Any additional costs of support in excess of the £6,000 per annum funded by ESFA will be met through top-up funding from the LA, including contributions from health and social

services where appropriate. LAs will need to secure agreement on how costs are to be shared between the relevant budget holders, those both within, and outside of the LA (such as, health).

8. Stage 1 – legal status & background information

The institution is required to complete Annex 2 to evidence:

- legal status – information as to the institution and the legal owner of the institution, for example is the legal owner an individual or company
- information relating to the student cohort and provision (either to be commissioned or already commissioned)
- confirmation of agreement to abide by the terms and conditions of ESFA funding agreement attached at Annex 1 or any future terms and conditions as amended by ESFA from time to time
- contact details to be used by ESFA to provide an update on the outcome of each of the stages of the process
- self-assessment of provision

The commissioning LA will be contacted by ESFA at this stage and will be asked to provide the following information:

- confirmation on the number of students that have been commissioned at the institution and how many of these students hold an EHC plan
- a statement to evidence their rationale for placing students at the institution, e.g. is this filling a gap?
- details on the amount of top up funding they have agreed to allocate to the institution

9. Stage 2 – financial health assessment

Financial health of institutions will be assessed using ESFA's financial health assessment methodology. The formula based assessment will categorise institutions' financial health as: outstanding, good, satisfactory, or inadequate. These categories are based on a scoring of 3 ratios: solvency (current ratio); performance (surplus divided by income); and gearing (debt as a percentage of reserves).

The applicant must provide full financial documentation in support of their application covering a minimum of 2 years. Financial statements submitted must be full accounts (not abbreviated), and audited, if appropriate. If only abbreviated accounts are required for Companies House filing, organisations must still submit their full statutory accounts to us.

For an institution that has not yet produced its first set of financial statements, it must supply its first 12 months' forecast figures, and management accounts to date showing actual activity. As a minimum these must consist of:

- 12 months forecast profit and loss account
- cash flow forecast
- end of period forecast balance sheet
- full explanation of assumptions behind the figures provided

The management accounts and forecast information cannot be submitted in place of any financial

statements available. Any financial health grade awarded from the submission of financial forecasts will only remain until the first set of financial statements become available.

Institutions whose financial health is assessed as being inadequate or have omitted to provide the financial information required will fail the application process and will not be offered an ESFA funding agreement. If an institution successfully completes the process, a recommended maximum ESFA funding limit may be applied. This funding restriction would be for ESFA funding and not inclusive of local authority element 3 top-up funding or any other funding the institution receives.

Institutions which do not have the necessary financial expertise themselves are advised to seek professional financial advice to ensure that the correct financial information is submitted. If the information submitted is incomplete or incorrect, the institution will fail at that stage. There will be no opportunity to re-submit amended or additional financial information.

ESFA reserves the right to carry out further financial checks throughout the due diligence process if more up to date information becomes available.

10. Stage 3 – quality of provision

Institutions are required to demonstrate the quality of their provision by submitting evidence:

- of the latest Ofsted inspection report
- of the latest Care Quality Commission (CQC)
- of the study programmes available
- that the staff are suitably qualified to undertake the role for which they are employed

An institution with an inadequate overall, or in part, grade from Ofsted will be unsuccessful in securing an ESFA funding agreement. An institution that is not compliant with CQC standards will be unsuccessful.

Where an institution is newly established and has not yet been the subject of inspection by either Ofsted or CQC (see below), and is otherwise successful in securing an ESFA funding agreement, it will be inspected within 2 years of the ESFA funding agreement being in place. The outcome of any such inspection may affect the maximum value of the funding agreement.

11. Site visit

Where an institution is newly established and to date has not been the subject of inspection by either Ofsted or CQC, ESFA reserves the right to request an independent consultant to undertake a visit of the planned delivery site, as part of stage 3 of the process. This visit will focus on the quality of provision, the study programme, internal policies in place and teaching staff. By commencing the due diligence process, the owners of the institution indicate their consent to allowing such an independent consultant access to the institution, staff and existing students in order to comply with the requirements of the due diligence process.

ESFA would expect a representative from the main commissioning LA to be present at this visit. The independent consultant will seek information from the representative about the number of students being placed at the institution and the rationale behind the commissioning decisions.

12. Outcome

An institution will be unsuccessful if there is insufficient evidence for the following:

- one or more LAs are commissioning, or planning to commission, 10 or more HNS placements at the institution in the academic year 2018 to 2019
- at least 10 students are subject to an EHC plan
- staff are suitably qualified to undertake the role for which they are employed
- at least a satisfactory level of financial health

The final decision to issue a funding agreement will be taken by officials in ESFA on behalf of the Secretary of State for Education. The institution will be informed of the decision in writing including, where successful, any maximum ESFA funding limit. Institutions that are unsuccessful will be provided with feedback.

Receipt of funds in one academic year is not a guarantee that ESFA funding will be allocated in subsequent years. This will be dependent on a number of factors, including but not limited to individual LA commissioning decisions, confirmation that the institution can demonstrate it is fit for continued funding by remaining above the thresholds expected for quality, finance, departmental policy and available ESFA budget.

13. ESFA contact details

The documentation related to this process will be managed via a dedicated email address

HNSDueDiligence.ESFA@education.gov.uk

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